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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/569,510	07/24/2006	Hans Sigrist	62130-0036	7938
61263 7590 04/13/2009 PROSKAUER ROSE LLP 1001 PENNSYLVANIA AVE, N.W., SUITE 400 SOUTH WASHINGTON, DC 20004				
EXAMINER				
CHRISS, JENNIFER A				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
04/13/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/569,510

Applicant(s)

SIGRIST ET AL.

Examiner

JENNIFER A. CHRISS

Art Unit

1794

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 2, 4 - 5, 14 - 21, 33 - 34, 37, 52 - 53 and 59 - 61 is/are pending in the application.
- 4a) Of the above claim(s) 1 - 2, 4 - 5, 14 - 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33 - 34, 37, 52 - 53 and 59 - 61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's Amendments and Accompanying Remarks filed on February 2, 2009 has been entered and carefully considered. Claims 33, 53 and 60 are amended, claim 61 is added, claims 1 – 2, 4 – 5, 14 - 21 are withdrawn and claims 1 – 2, 4 – 5, 14 – 21, 33 - 34, 37, 52 - 53 and 59 - 61 are pending. In view of Applicant's amendments to the claims requiring that the textile product is a cloth, fabric or woven material and the yarn product is a spun thread, the Examiner withdraws all previously set forth rejections. After an updated search, additional art is found which renders the invention as currently claimed unpatentable for reasons herein below.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 27 and 62 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Regarding claims 27 and 62, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

6. Claims 33 – 24, 37, 52 – 53 and 59 – 61 are rejected under 35 U.S.C. 102(b) as being anticipated by the article entitled "Conjugation and Modeled Structure/Function Analysis of Lysozyme on Glycine Esterified Cotton Cellulose-Fibers" by Edwards et al.

The article discusses immobilizing lysozyme by covalently bonding the lysozyme to a glycine-derivatized cotton cellulose, in particular cotton-based fabrics (Abstract, page 469). The lysozyme was attached through amide bond formation of aspartate and glutamate residues on the surface of the protein to accessible glycine esterified cellulose sites in the cotton cellulose fiber (Discussion, page 472). Although the article does not specifically discuss a "cleavage site which is cleaved under predetermined conditions to allow release of the non-linker molecule or functional group from the yarn or textile product" or "a target for hydrolytic enzyme such that the non-linker molecule is released by enzyme-induced or biosystem-induced release", the prior art meets the structural and/or chemical limitations set forth and there is nothing on record to evidence that the prior art product could not function in the desired capacity or that there

is some additional implied structure associated with the terms. The burden is shifted upon the Applicant to evidence the contrary. Additionally, the means of covalent attachment through reaction of thermochemically or photochemically generated carbenes provided by the linker molecule" is not germane to the patentability of the article itself.

Response to Arguments

7. In view of Applicant's amendments to the claims, the rejections are withdrawn and Applicant's arguments are rendered moot.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNIFER A. CHRISS whose telephone number is (571)272-7783. The examiner can normally be reached on Monday - Friday, 8:30 a.m. - 6 p.m., first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jennifer A Chriss/
Primary Examiner, Art Unit 1794

/J. A. C./
Primary Examiner, Art Unit 1794